

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

DAVID PRIEST,

Plaintiff,

v.

BENTLEY, et al.,

Defendants.

No. 2: 21-cv-0058 TLN KJN P

ORDER

On December 22, 2022, defendants filed a supplemental summary judgment motion pursuant to Federal Rule of Civil Procedure 56. (ECF No. 75.) Plaintiff did not oppose the motion.

Local Rule 230(l) provides in part: “Failure of the responding party to file written opposition or to file a statement of no opposition may be deemed a waiver of any opposition to the granting of the motion . . . .” Id. On September 24, 2021 (ECF No. 28) and December 22, 2022 (ECF No. 75-3), plaintiff was advised of the requirements for filing an opposition to a motion and that failure to oppose such a motion may be deemed a waiver of opposition to the motion. See Rand v. Rowland, 154 F.3d 952, 957 (9th Cir. 1998) (en banc), and Klinge v. Eikenberry, 849 F.2d 409, 411-12 (9th Cir. 1988).

Local Rule 110 provides that failure to comply with the Local Rules “may be grounds for imposition of any and all sanctions authorized by statute or Rule or within the inherent power of

1 the Court.” Id. In the order filed September 24, 2021, plaintiff was also advised that failure to  
2 comply with the Local Rules may result in a recommendation that the action be dismissed.

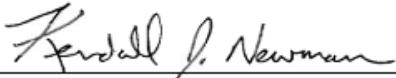
3 Finally, Rule 41(b) of the Federal Rules of Civil Procedure provides:

4 **Involuntary Dismissal; Effect.** If the plaintiff fails to prosecute or  
5 to comply with these rules or a court order, a defendant may move to  
6 dismiss the action or any claim against it. Unless the dismissal order  
7 states otherwise, a dismissal under this subdivision (b) and any  
dismissal not under this rule--except one for lack of jurisdiction,  
improper venue, or failure to join a party under Rule 19--operates as  
an adjudication on the merits.

8 Id.

9 Good cause appearing, IT IS HEREBY ORDERED that, within thirty days from the date  
10 of this order, plaintiff shall file an opposition, if any, to the supplemental motion for summary  
11 judgment. Failure to file an opposition will be deemed as consent to have the: (a) action  
12 dismissed for lack of prosecution; and (b) action dismissed based on plaintiff’s failure to comply  
13 with these rules and a court order. Such failure shall result in a recommendation that this action  
14 be dismissed pursuant to Federal Rule of Civil Procedure 41(b).

15 Dated: January 26, 2023

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17 KENDALL J. NEWMAN  
18 UNITED STATES MAGISTRATE JUDGE

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